

CHAPTER 41 ANIMAL CONTROL

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TITLE, SCOPE, AND AUTHORITY

41.005 Title. This Chapter may be cited as the Animal Control Ordinance of the Public Protection section of the City of Adair Village City Code.

41.010 Purpose and Scope.

It is the purpose of this Chapter to define conditions which exist that may endanger the life, limb, health, safety, or welfare of the general public and to provide a just, equitable, and practicable method to prohibit and abate these conditions.

41.020 General Authority.

(1) The City Administrator, upon consent and direction of the City Council, is responsible for the administration, enforcement, and oversight of this Chapter of the City of Adair Village City Code, and to apply these provisions consistent with the general laws of the State of Oregon.

(2) The City Council may, by order, designate enforcement officers to assist the City Administrator in enforcing this Chapter.

(3) Provisions of ORS 609 shall apply when not in conflict with or superseded by this ordinance.

41.030 Severability.

(1) If any part or parts of this ordinance are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

DEFINITIONS

40.110 Definitions. As used in Sections 41.110 to 41.990, the singular includes the plural and the masculine includes the feminine. Except where the context indicates otherwise, the following shall mean:

(1) Dog. A male or female dog including a dog which has been spayed or neutered.

(2) Owner. Any person or persons, firm, association or corporation owning, keeping or harboring a dog.

(3) Running at large. Any dog when it is off leash or outside the premises belonging to the owner of such dog, and not in the company of and under the control of the owner, except in the case of a dangerous dog, in which case the term shall also include a dog unconfined in accordance with the requirement set forth in Section 41.600 below.

(4) Leash. Any leash, cord, chain, rope or other such physical restraint.

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(5) Muzzle. A device constructed of strong, soft material or a metal muzzle such as that used commercially with greyhounds. The muzzle must be made in a manner which will not cause injury to the dog or interfere with its vision or respiration, but must prevent it from biting any person or animal.

(6) Unconfined. As the term is used in this section relates to a dangerous dog, if such dog is not securely confined indoors, or leashed and muzzled, or confined in a securely enclosed and locked pen or structure upon the premises of the person who owns the dog. Such pen or structure must have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot.

(7) Livestock. Animals kept for husbandry. Livestock includes but is not limited to cattle, sheep, horses, mules, asses, burros, goats, swine and other hoofed, domesticated animals, poultry, pigeons and fur-bearing animals bred and maintained commercially or otherwise kept within pens, cages or hutches.

(8) Dangerous Dog is defined in Section 41.600.

(9) Code Enforcement Officer. Any individual authorized by the City Council to enforce City ordinances.

REQUIREMENTS OF DOG OWNERSHIP

41.210 License and Rabies Vaccination Required. Any person within the city limits of Adair Village must obtain and display upon their dog a current Benton County license, as required by ORS 609.100 and a current certification of rabies vaccination.

41.220 Leash Law. No person shall keep within the city limits of Adair

(1) A dog must be restrained on a leash, not exceeding six feet in length, when on any street, alley, or sidewalk.

(2) A dog must be restrained on a leash when upon any premises other than the owners or such person's premises who have given permission.

41.230 Loud Animals. No person shall keep within the city limits of Adair Village any animal, which without provocation causes frequent or prolonged loud noise, such as dogs barking, which disturbs others. On a first offense, a warning will be issued to the owner of the loud animal. If there is a second complaint within one week a fine will be assessed. If there are three or more complaints within a period of a week, a second fine may be assessed. If more than five complaints are received over the period of a month, the same animal, the animal may be declared a public nuisance, as per section 41.420 (1)(f). If one harbors a loud animal, they may be subject to a citation in accordance to section 41.990 of this ordinance.

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41.240 Scoop Law. No person who owns or is in charge of a dog within the city limits shall permit a dog to defecate on city property or the property of others without picking up the feces. If a person who owns or is in charge of a dog within the city limits allows a dog to defecate on city property or the property of others without picking it up will be given a citation in accordance with Section 41.990 of this ordinance.

41.250 Unattended Animals. No person shall leave an animal unattended within the city limits, or attach any animal by use of any device to:

(1) Any building, tree, pole, sign, vehicle, or other object on a public street, alley, parking lot, or sidewalk.

(2) Any object on premises other than his own without permission of the owner of such premises.

(3) Any object on private premises in a manner which would allow the animal to have access to any public sidewalk or street.

(4) A fire hydrant under any circumstances.

41.260 Dangerous Dogs to Be Penned and/or Muzzled.

(1) No person owning or harboring or having the care of a dangerous dog shall suffer or permit such animal to go unconfined on the premises of such person.

(2) No person owning or harboring or having the care of a dangerous dog shall suffer or permit such dog to go beyond the premises of such person unless such dog is securely leashed and muzzled.

IMPOUNDING

41.310 Impounding Of Strays. Any animal found running at large within the city limits of Adair Village, Oregon, shall be taken up and impounded by the city.

41.320 Impounding Certain Dogs.

(1) When any dog is found running at large in the city, or when a dog is a public nuisance described in Section 41.420, the Code Enforcement Officer shall impound the dog or cite the owner to court or both.

(2) When a dog is impounded under section 41.300, the Code Enforcement Officer shall post at City Hall a notice giving the description of the dog, and the time, the date, and location where the dog was running at large. Said notice shall be posted for five business days. Reasonable effort shall be made to notify the owner that their dog has been impounded before disposing of the animal, as per section (3) below.

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(3) If the dog has been impounded for any reason other than being a dangerous animal and the owner of the dog does not claim it within the time frames set forth in subsection (2) above, the dog may be sold to another person for the sum of the charges mentioned in section 41.920. If no owner appears to redeem a dog within the allotted time, or if the dog has been impounded as a public nuisance for killing or injuring a person, it shall be given to the humane society for disposition.

(4) Any dog impounded for biting or killing a person or other animal shall be held no less than 10 days before destruction to determine if the dog is rabid.

(5) Any dog running at large, which because of its disposition or diseased condition is to hazardous to apprehend, may be destroyed by a peace officer, dog control officer, code enforcement officer, or by a person acting in defense of himself, his family or another person.

41.330 Redemption. Should the owner of a dog impounded for any reason desire its release, the owner shall pay an impound fee as set forth in Section 41.920. Any owner redeeming an impounded dog shall pay, in addition to the impound fee, the total of the daily care expenses accrued during the impound period, plus any other expenses incurred in the keeping of the dog.

PROHIBITIONS

41.410 Sale Of Dangerous Dogs Prohibited. It shall be unlawful for any person to sell to any other person a dangerous dog within the city limits of Adair Village.

41.420 Dog as a Public Nuisance Prohibited.

(1) A dog is considered a public nuisance if it:

- (a) Bites, injures, or causes injury to a person.
- (b) Chases or threatens vehicles or persons.
- (c) Damages or destroys property of persons other than the owner of the dog.
- (d) Scatters garbage.
- (e) Trespasses on private property of persons other than the owner of the dog.
- (f) Disturbs any person by frequent or prolonged noise.
- (g) Is a female in heat and running at large.

(2) The owner or keeper of a dog in the city shall not allow his or her dog to be a public nuisance under subsection (1) of this ordinance.

(3) Any person who has cause to believe that a dog is being maintained as a public nuisance may complain, either orally or in writing, to the code enforcement officer. The complaint shall be considered sufficient cause for the city to investigate the matter and determine if the owner or keeper of the dog is in violation of this ordinance.

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(4) A dog shall not be in violation of this ordinance if he bites a person wrongfully assaulting the dog or the dog's owner or if he bites a person trespassing upon premises occupied by the dog's owner after being provoked by that person.

41.430 Cruelty to Animals.

(1) No person shall torture, abandon, mutilate or needlessly kill any animal, nor shall any person transport or authorize to be transported any animal in a cruel or inhumane manner.

(2) No person shall fail to provide any animal in their custody with food, drink, satisfactory sanitary conditions and protection from the elements nor shall any person tether or restrain any animal in an inhumane manner.

(3) In the event any part of this section is violated, the code enforcement officer has the authority to impound the animal and may dispose of the animal under the provisions of section 41.300.

(4) No person shall place or distribute any poison or other substance with the intent to harm any animal, except those animals commonly recognized as pests or rodents. Commercial exterminators, government agencies and any individual using such substances in an open area are required to post notice prior to application of any pest controlling agents or devices.

OTHER ANIMALS

41.510 Cats.

(1) Cats are declared to be personal property.

(2) Any person within the city limits of Adair Village must maintain current verification of vaccination against rabies for their cats and present such verification to the Code Enforcement Officer upon request.

(3) All sexually mature cats that are allowed by their owners to be outside their house must be spayed or neutered.

41.520 Harboring Animals without Documentation. Any person or persons within the city limits of Adair Village must obtain and keep documentation on all the animals in their possession or care, pertaining to rabies or alteration of the animal. If the owner of the animals in question is unable to provide proof of rabies shots or alterations, they are subject to a citation in accordance to section 41.990 of this ordinance.

41.530 Livestock and Poultry. No animals, livestock of any kind, or poultry shall be raised or kept on any property within the city limits of Adair Village. Dogs, cats or other traditionally domesticated animals may be kept, provided that they are not kept, bred or maintained for any commercial purposes. Harboring these animals on ones property even if the animals are not being used for commercial use will result in a citation in accordance to section 41.990 of this ordinance.

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41.540 Horses, Ponies or Equines. No person shall ride or lead any horses or ponies or other equines in any park, public street, private property or sidewalk, except upon a designated bridle path without obtaining a special permit. A permit will be issued by the City Recorder upon approval of the City Council.

DANGEROUS ANIMALS

41.610 Dangerous animals.

(1) Any animal or domestic animal which attempts to attack or attacks or harms any person or other animal is hereby declared a dangerous animal and a public nuisance. For purposes of this section, “animal” refers to both animals and domestic animals. It is the intent of the city to promote a safe coexistence between pet owners and citizens and to apply sanctions only in those instances where there is a need to protect public safety.

41.620 Classification of Levels of Dangerousness. An animal shall be classified as dangerous based upon specific behaviors exhibited by the animal. Behaviors establishing various levels of dangerousness are as follows:

(1) Level 1 behavior is established if an animal at large is found to menace, chase, display threatening or aggressive behavior, or otherwise threaten or endanger the safety of any animal.

(2) Level 2 behavior is established if an animal at large is found to menace, chase, display threatening or aggressive behavior or otherwise threaten or endanger the safety of any person.

(3) Level 3 behavior is established if an animal, while confined, aggressively bites any person.

(4) Level 4 behavior is established if an animal, while at large, aggressively bites or causes physical injury to any person or animal.

(5) Level 5 behavior is established if:

- (a) An animal, whether or not confined, causes the serious injury or death of any person;
- (b) An animal, while at large, kills any animal;
- (c) An animal engages in or is found to have been trained to engage in exhibitions of fighting; or
- (d) An animal that has been classified as a Level 4 dangerous animal repeats the behavior described in subsection 41.620(4) of this section after the owner receives notice of Level 4 classification.

(6) Notwithstanding subsections (1) through (4) of this section, the city administrator or the city administrator’s designee shall have discretionary authority to refrain from classifying an animal as potentially dangerous, even if the animal has engaged in the behaviors specified in subsections

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41.620(1) through 41.620(5) of this section, if the city administrator or the designee determines that the behavior was the result of abusing or tormenting the animal or other extenuating circumstances. In any case, no animal shall be classified as dangerous if the behavior in question was directed against a trespasser inside any fully enclosed building on private property if all exterior doors of the building were locked at the time the trespassing occurred.

41.630 Identification of Dangerous Animals – Appeals – Restrictions Pending Appeal.

(1) City administrator or the city administrator's designee shall have authority to determine whether any animal has engaged in the behaviors specified in subsection 41.620 of this section. This determination shall be based upon an investigation that includes observation of and testimony about the animal's behavior. These observations and testimony can be provided by the animal control officer or by other witnesses who personally observed the behavior. They shall sign a written statement attesting to the observed behavior and agree to provide testimony regarding the animal's behavior if necessary.

(2) The city administrator or the city administrator's designee shall give the animal's owner written notice by certified mail or personal service of the animal's classification as a dangerous animal and of the additional restrictions applicable to that animal by reason of its classification. If the owner denies that the behavior in question occurred, the owner may appeal the decision to the municipal judge by filing a written request for a hearing with the city administrator within 10 days of the date the notice was mailed to the owner by certified mail or the owner was personally served.

(3) The municipal judge shall hold a public hearing on any appeal from the city administrator's decision to classify an animal as potentially dangerous. The owner and any other persons having relevant evidence concerning the animal's behavior as specified in subsection (B) of this section shall be allowed to present testimony. The municipal judge shall determine whether the animal exhibited the behavior, specified in subsection 41.620 of this section, in question. The municipal judge shall issue an order containing his or her determination, which shall be final.

(4) Once the owner has received notice of the animal's classification as a Level 1, 2, 3, or 4 dangerous animal pursuant to subsection 41.620 of this section, the owner shall comply with the restrictions specified in the notice until such time as the chief of police or the chief's designee's decision may be reversed on appeal. Failure to comply with the specified restrictions pending the completion of all appeals shall be a violation of this chapter for which a fine can be imposed. Additionally, the chief of police or the designee shall have authority to impound the animal pending completion of all appeals.

(5) If the city administrator or the designee finds that an animal has engaged in Level 5 behavior, the animal shall be impounded pending the completion of an appeal. If the city administrator or the designee's decision is upheld on appeal, the animal's owner shall be liable for the cost of the animal's impoundment.

41.640 Regulation of Dangerous Animals. The owner of a dangerous animal shall comply with the following regulations:

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(1) If the animal has been classified as a Level 1 dangerous animal, the animal shall be restrained by a physical device or structure that prevents the animal from reaching any public sidewalk or adjoining property whenever that animal is outside the owner's home and not on a leash.

(2) If the animal has been classified as a Level 2 dangerous animal, the owner shall confine the animal within a secure enclosure whenever the animal is not on a leash or inside the home of the owner.

(3) If the animal has been classified as a Level 3 dangerous animal, the owner shall meet the requirements of subsection (2) of this section, and shall also post warning signs on the property where the animal is kept.

(4) If the animal has been classified as a Level 4 dangerous animal, the owner shall meet the requirements of subsections (1), (2), and (3) of this section and shall, additionally, not permit the animal to be off the owner's property unless the animal is muzzled and restrained by an adequate leash and under the control of a capable person.

(5) Any animal that has been classified as a Level 5 dangerous animal may be euthanized. In addition, the municipal court judge may suspend, for a period of up to five years, that animal owner's right to be the owner of any animal within the city limits, including animals currently owned by that person.

41.650 Banning of Dangerous Animals.

(1) At the discretion of the city administrator, an animal that has been classified as a Level 3 or 4 dangerous animal may be prohibited from entering or residing within the city limits except to be transported in a secure vehicle while passing through the city.

(2) In addition, the city administrator is empowered to ban a Level 3 or 4 animal from the city limits for a specified period of time or permanently; however, the animal's owner shall have the right of appeal, specified in section 41.630 (2), of any decision under this section.

41.660 Selling of Dangerous Animals. No person shall sell or otherwise transfer to another ownership of a dangerous animal within the city limits. No person shall secrete or harbor a dangerous animal for another while the owner of that animal exercises the right of appeal.

PENALTIES, CITATIONS, AND FEES

41.910 Penalties. Any owner or person in violation of this ordinance shall be given a citation, as described in Section 41.990.

41.920 Impound Fees. As designated by City Council Resolution.

41.930 City Council Appeal. Any dog owner, believing him or herself aggrieved by the seizure and impounding of his or her dog, may apply to the city administrator for the release of their dog, provided

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such appeal is filed within five days of the date the dog was impounded, and the city administrator shall thereupon set a time and place for the hearing of such application and notify the code enforcement officer and city council of such meeting. The city council shall have full power to determine whether the dog has been wrongfully impounded and whether it shall be released to its owner and upon what terms.

41.990 Citation Amounts. As designated by City Council Resolution, citations will be set for the following offenses.

- (1) Permitting a Dangerous Animal to be at large within the City limits.
- (2) Permitting a dog to be at large within the City limits.
- (3) Keeping a loud animal within the City limits.
- (4) Scoop Law.
- (5) Harboring animals without proof of spaying, neutering or rabies shots.
- (6) Harboring Livestock or Poultry.